

IT IS ORDERED

Date Entered on Docket: October 29, 2021



The Honorable David T. Thuma  
United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

IN RE:

Timothy J Gonzales aka Timothy James Gonzales dba NM Steam Clean  
Bernadette M Gonzales,  
Debtors

Case No. 20-11046-t13

**AMENDED STIPULATED ORDER GRANTING MOTION FOR RELIEF FROM  
THE AUTOMATIC STAY, CO-DEBTOR STAY, AND ABANDONMENT OF  
PROPERTY**

This matter came before the court on the stipulation of relief from the automatic stay and abandonment, between the Creditor, Wilmington Trust, National Association, not in its individual capacity, but solely as trustee for MFRA Trust 2014-2, its assignees and/or successors, by and through its servicing agent Fay Servicing, LLC ("Creditor"), and the Debtors Timothy J Gonzales and Bernadette M Gonzales ("Debtors"), by and through their respective attorneys of record, and the Chapter 7 trustee.

The Court, having reviewed the agreement as expressed in this Amended Stipulated Order and being otherwise sufficiently informed, FINDS:

(a) The Court has jurisdiction over the parties and the subject matter of this Amended Stipulated Order.

(b) On 4/13/2021, Creditor served the Motion for Relief from Stay and Abandonment of Property ("Motion") (Doc. 73) and Notice of Deadline to File

Objections to the Motion (Doc. 74) on James Clay Hume, counsel for the Debtors and the case trustee ("Trustee") by use of the Court's case management and electronic filing system for the transmission of notices, as authorized by Fed.R.Civ.P. 5(b)(3), and NM LBR 9036-1, and on the Debtors, Co-Debtors, and US Trustee by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

(c) On 5/5/2021, the Debtors filed an Objection to the Motion (Doc. 75).

(d) The Motion relates to the following property:

LOT NUMBERED TWO (2) OF LOIS ADDITION, AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT THEREOF, FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO ON MARCH 30, 1964 IN PLAT BOOK C6, FOLIO 8.

Commonly known as 1504 San Lorenzo Place Northwest, Albuquerque, NM 87107 ("Property").

(e) The parties wish to stipulate to the stay relief, as provided in this Amended Stipulated Order.

(f) No notice to other creditors of the stay relief is necessary.

**IT IS THEREFORE ORDERED:**

1. The Motion is hereby granted, and pursuant to 11 U.S.C. §362(d), Creditor and any and all holders of liens against the Property, of any lien priority, are hereby granted relief from the automatic stay:

(a) To enforce their rights in the Property, including foreclosure of liens and a foreclosure sale, under the terms of any prepetition notes, mortgages, security agreements, and/or other agreements to which Debtors are a party, to the extent permitted by applicable nonbankruptcy law, such as by commencing or proceeding with appropriate action against the Debtors or the Property, or both, in any court of competent jurisdiction; and

(b) To exercise any other right or remedy available to them under law or equity with respect to the Property.

2. The Trustee is deemed to have abandoned the Property from the estate pursuant to 11 U.S.C. §554 as of the date of entry of this Order, and the Property therefore no longer is property of the estate. As a result, Creditor need not name the Trustee as a defendant in any state court action it may pursue to foreclosure liens against the Property and need not notify the Trustee of any sale of the Property.

3. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of the Debtors, although the Debtors can be named as defendants in litigation to obtain an in rem judgment or to repossess the Property in accordance with applicable non-bankruptcy law.

4. This Order does not waive Creditor's claim against the estate for any Deficiency owed by the Debtors after any foreclosure sale or other disposition of the Property. Creditor may file an amended proof of claim in this bankruptcy case within 30 days after a foreclosure sale of the Property, should it claim that Debtors owes any amount after the sale of the Property.

5. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

6. This Order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

7. This Stipulated Order shall be binding and effective upon any conversion of this case to another chapter under the Bankruptcy Code.

8. The co-debtor stay of 11 U.S.C. §1201(a) or §1301(a) is terminated, modified or annulled as to the co-debtors, Antoinette Marie Vallejos and Alex Oscar Vallejos, of the Note, Mortgage, and Loan Modification Agreements, on the same terms and conditions as to the Debtors.

### End of Order ###

RESPECTFULLY SUBMITTED AND AGREED TO BY:

McCarthy & Holthus, LLP

By /s/ Jason Bousliman  
Jason Bousliman, Esq.  
Attorney for Creditor  
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AGREED TO BY:

By /s/ James Clay Hume via email on 10/28/21  
Attorney for Debtors

James Clay Hume  
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By /s/ Tiffany M. Cornejo via email on 10/28/21  
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